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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 170828813-7999-02]

RIN 0648-BH15

Snapper-Grouper Fishery of the South Atlantic Region;

Temporary Measures to Reduce Overfishing of Golden Tilefish

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Temporary rule; interim measures extended.

SUMMARY: NMFS issues this temporary rule to extend the expiration date of interim measures to reduce overfishing of golden tilefish in Federal waters of the South Atlantic implemented by a temporary rule published by NMFS on January 2, 2018. This temporary rule extends the reduced total annual catch limit (ACL), commercial and recreational sector ACLs, and quotas for the hook-and-line and longline components of the commercial sector for an additional 186 days. The purpose of this temporary rule extension is to reduce overfishing of golden tilefish while the South Atlantic Fishery Management Council (Council) develops management measures to end overfishing of golden tilefish on a permanent basis.

DATES: The expiration date for the final temporary rule published at 83 FR 65 on January 2, 2018, is extended through January 3, 2019, unless NMFS publishes a superseding document in the **Federal Register**.

ADDRESSES: Electronic copies of the environmental assessment (EA) supporting these interim measures may be obtained from the Southeast Regional Office website at http://sero.nmfs.noaa.gov/sustainable_fisheries/s_atl/sg/2017/golden_tilefish_interim/index.html. The EA includes a Regulatory Flexibility Act (RFA) analysis.

FOR FURTHER INFORMATION CONTACT: Mary Vara, NMFS Southeast Regional Office, telephone: 727-824-5305, or email: mary.vara@noaa.gov.

SUPPLEMENTARY INFORMATION: The snapper-grouper fishery in the South Atlantic region includes golden tilefish and is managed under the Fishery Management Plan for Snapper-Grouper Fishery of the South Atlantic Region (FMP). The FMP was prepared by the Council and is implemented by NMFS through regulations at 50 CFR part 622 under authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

On January 2, 2018, NMFS published the final temporary rule to implement interim measures to reduce overfishing of golden tilefish in South Atlantic Federal waters (83 FR

65). The final temporary rule reduced the total ACL for golden tilefish to 323,000 lb (146,510 kg), gutted weight, 361,760 lb (164,092 kg), round weight. In addition, the final temporary rule reduced the commercial and recreational sector ACLs and component commercial quotas, using the existing sector allocations, and the quotas for the hook-and-line and longline components of the commercial sector. Therefore, during the effectiveness of the final temporary rule and this temporary rule extension, the commercial ACL is 313,310 lb (142,115 kg), gutted weight; the commercial quota for the hook-and-line component is 78,328 lb (35,529 kg), gutted weight; and the commercial quota for the longline component is 234,982 lb (106,586 kg), gutted weight. The recreational ACL during the effectiveness of the final temporary rule and this temporary rule extension is 2,187 fish, which is equivalent to 9,690 lb (4,395 kg), gutted weight. This temporary rule extension continues the measures in the final temporary rule unchanged for an additional 186 days, unless this temporary rule extension is superseded by subsequent rulemaking. The purpose of these interim measures is to reduce the overfishing of golden tilefish in South Atlantic Federal waters, while long-term management measures are developed and implemented through Regulatory Amendment 28

to the FMP. The January 2, 2018, final temporary rule stated that long-term management measures would be developed through Amendment 45 to the FMP. The Council subsequently determined that an FMP amendment was not required, and that the same management measures could be developed and implemented using the existing FMP framework procedures. Regulatory Amendment 28 will include management measures to end overfishing of golden tilefish on a long-term basis.

Regulatory Amendment 28 is scheduled to be approved by the Council at their June 2018 meeting and implemented prior to the expiration of the interim measures in this temporary rule extension in the 2019 fishing year, which begins on January 1, 2019.

Section 305(c) (2) of the Magnuson-Stevens Act provides the Council the authority to request interim measures, if necessary, to reduce overfishing. The Council sent a letter to NMFS, dated June 27, 2017, to request that NMFS implement interim measures to immediately reduce overfishing of golden tilefish while long-term management measures are developed to end overfishing of golden tilefish. Section 305(c) (3) (B) of the Magnuson-Stevens Act allows for interim measures to be extended for one additional period of 186 days provided that the public has

had an opportunity to comment on the interim measures and that the Council is actively preparing an FMP amendment to address the overfishing on a permanent basis. NMFS published a proposed temporary rule on October 30, 2017, and requested public comments on these interim measures (82 FR 50101). NMFS responded to public comments in the final temporary rule published on January 2, 2018 (83 FR 65).

Classification

The Regional Administrator for the NMFS Southeast Region has determined that the interim measures extended through this temporary rule are necessary for the conservation and management of the South Atlantic golden tilefish stock, until long-term measures are implemented, and are consistent with the FMP, the Magnuson-Stevens Act and other applicable laws.

This temporary rule extension has been determined to be not significant for purposes of Executive Order 12866.

This temporary rule extension is exempt from the procedures of the RFA, because the rule is issued without the opportunity for prior notice and public comment.

NMFS prepared an EA for the interim measures contained in the January 2, 2018, final temporary rule (83 FR 65). The EA analyzed the impacts of reduced harvest through the 2018 fishing year, which includes the impacts related to

extending the interim measures. Therefore, the impacts of extending the interim measures through this temporary rule have already been considered. Electronic copies of the EA are available from NMFS (see **ADDRESSES**).

This temporary rule extension responds to the best scientific information available. The Assistant Administrator for NOAA Fisheries (AA) finds that the need to immediately implement this action constitutes good cause to waive the requirements to provide prior notice and opportunity for public comment, pursuant to the authority set forth in 5 U.S.C. 553(b)(B), as such procedures for this temporary rule extension are unnecessary and contrary to the public interest. Such procedures are unnecessary because NMFS already published a proposed temporary rule on October 30, 2017, and requested public comments on these interim measures, including their potential extension (82 FR 50101). NMFS responded to public comments in the final temporary rule published on January 2, 2018 (83 FR 65). This temporary rule extension continues the interim measures unchanged for an additional 186 days.

Prior notice and opportunity for public comment are contrary to the public interest because of the need to continue these interim measures without interruption to protect the golden tilefish stock until the Council and

NMFS can prepare and possibly implement management measures under Regulatory Amendment 28 to end overfishing of golden tilefish on a permanent basis. Prior notice and opportunity for public comment would require time and could result in an interruption of the interim measures and, therefore, allow harvest in excess of ACLs and quotas implemented by this temporary rule extension, which would contribute to overfishing of golden tilefish. Allowing overfishing of golden tilefish to continue would be contrary to National Standard 1 of the Magnuson-Stevens Act. National Standard 1 requires NMFS to conserve and manage ocean resources to prevent overfishing, while achieving the optimum yield from each fishery.

The AA also finds good cause to waive the 30-day delay in this temporary rule extension's effectiveness, pursuant to the authority set forth in 5 U.S.C. 553(d)(3) as such procedure for this temporary rule extension is impracticable and contrary to the public interest. A delay in effectiveness is impracticable, because it would contribute to overfishing of golden tilefish, which is contrary to National Standard 1 of the Magnuson-Stevens Act as stated previously. Without this temporary rule extension becoming effective immediately after the duration of and without interruption from the final temporary rule, which

would end after July 1, 2018, the commercial and recreational sectors would be able to harvest golden tilefish under higher ACLs and quotas than those implemented by the final temporary rule and continued through this temporary rule extension. These harvests could result in further overfishing of golden tilefish, contrary to NMFS' statutory obligations. By implementing this temporary rule extension immediately, the total harvest of golden tilefish would be reduced until the Council and NMFS can prepare and possibly implement management measures under Regulatory Amendment 28 to end overfishing of golden tilefish on a permanent basis.

In addition, delaying the effectiveness of this final temporary rule for 30 days is contrary to the public interest because of the need to immediately implement this action to protect golden tilefish. The capacity of the fishing fleet allows for rapid harvest of the ACL. Delaying the effectiveness of this temporary rule extension would require time and could potentially result in a harvest in excess of the reduced ACLs implemented by this temporary rule extension, increasing the likelihood of future overfishing and more restrictive measures to address it.

Accordingly, the 30-day delay in effectiveness of the measures contained in this temporary rule extension is

waived.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 14, 2018.

Samuel D. Rauch, III,
Deputy Assistant Administrator for
Regulatory Programs,
National Marine Fisheries Service.

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